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Stuart R. Hemphill, Esq. DORSEY & WHITNEY LLP Intellectual Property Department 50 South Sixth Street, Suite 1500 Minneapolis, MN 55402-1498			EXAMINER BRAHAN, THOMAS J	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PIERRE C. DELAGO

Appeal 2009-005708
Application 10/786,202
Technology Center 3600

Before: WILLIAM F. PATE III, MICHAEL W. O'NEILL, and
FRED A. SILVERBERG, *Administrative Patent Judges*.

PATE III, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF CASE

Appellant appeals under 35 U.S.C. § 134 from the final rejection of claims 56-69. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

The claims are directed to a crane radial support bearing. Claim 56, reproduced below, is illustrative of the claimed subject matter:

56. A crane comprising:

- a vertical post including a post bearing surface forming at least a partial arc about a vertical axis of the vertical post;

- a superstructure pivotal about the vertical post and including a boom foot having a pivot point;

- a boom extending from the boom foot and pivotable in a vertical plane about the pivot point in response to one or more lines extending between the boom and a swivel-post head near a top of the vertical post;

- a single roller chain encompassing at least a segment of the post bearing surface and comprising:

- a plurality of rollers arranged in a pivotally-linked sequence, each roller including a rotational axis generally parallel to the vertical axis of the vertical post and a roller surface in rolling contact with the post bearing surface, wherein the rollers are distributed with equal spacing on an arc along the post bearing surface with at least 180 degrees between a first roller and a last roller;

- a first anchor coupled to the crane superstructure and operably, pivotally-linked to the first roller; and

- a second anchor coupled to the crane superstructure and operably, pivotally-linked to the last roller; and

- the first and second anchors being positioned to make the arc of the roller chain substantially symmetrical with respect to the vertical plane of boom motion and to tension the rollers against the post-bearing surface, whereby the pivoting action of the rollers maintains substantially equal distribution of radial loads from the boom across all rollers in the roller chain.

REJECTIONS

As noted by the Examiner, Appellant's arguments are premised solely on the allegedly improper rejection of the sole independent claim, claim 56, under 35 U.S.C. § 103(a) as being unpatentable over Kaltenbach (US 1,582,274, issued Apr. 27, 1926) and Wampach (US 2,966,752, issued Jan. 3, 1961). Ans. 2.

OPINION

It is well-settled that all words in a claim must be considered in judging the obviousness of the claimed subject matter. Appellant correctly points out that, in rejecting claim 56, the Examiner substituted the claim limitation requiring "first and second anchors being positioned to make the arc of the roller chain substantially symmetrical with respect to the vertical plane of boom motion" with a requirement that "the rollers [are] substantially symmetrical with the vertical plane of the boom." Reply Br. 3; Ans. 7. Since, as the parties agree, Wampach does not disclose a roller chain arrangement, the Examiner relies upon Kaltenbach for this teaching. Ans. 3, 7.

Kaltenbach teaches that an adjustable chain of rollers encircling a crane tower girder has advantages over typical fixed thrust rollers. Kaltenbach prefers two semi-circular chains in series, as shown in figures 2 and 13, having levers 29 at the ends which can adjust the chain to take up slack due to wear on the rollers. Kaltenbach 2:82-124.

The Examiner does not explicitly state which roller chain of Kaltenbach is read as the claimed "single roller chain." Since the claim calls for a "single roller chain" with "at least 180 degrees between the first and

last roller” and anchors “operably, pivotally-linked to the [first and last] roller,” the “arc of the roller chain” may be either one of the semicircular chains depicted in Kaltenbach’s figure 2. In either case, since the boom extends orthogonally to columns 15a, the arc of the roller chain is not symmetrical about the vertical plane of boom motion. App. Br. 17-20; Reply Br. 3-4; Kaltenbach Fig. 1. It is generally recognized that, absent some indication otherwise, specific dimensions cannot be determined based upon patent drawings alone. Indeed, comparing figures 2 and 13 of Kaltenbach, there is some discrepancy between the location of the chain levers 29, read as the claimed “anchors” at the chain ends, and the columns 15a supporting the boom 10. Since Kaltenbach does not discuss the relative position of the roller chains and the vertical plane of boom motion and the drawings appear to indicate a lack of symmetry, Kaltenbach cannot be relied upon for teaching “first and second anchors being positioned to make the arc of the roller chain substantially symmetrical with respect to the vertical plane of boom motion” as claimed. The Examiner has not articulated a reason with a rational underpinning why this would have been an obvious modification. Accordingly, we are constrained to reverse the Examiner’s rejection of claim 56, along with dependent claims 57-61, 64 and 67-69 as being unpatentable over Kaltenbach and Wampach. As applied by the Examiner, the other evidence relied upon fails to cure this deficiency. The rejections of claims 62, 63, 65, 66 and the alternative rejection of claim 64 must also be reversed.

DECISION

For the above reasons, the Examiner’s rejection of claims 56-69 is reversed.

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Application 10/786,202

REVERSED

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